

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE

Mailing Address: P.O. Box 1689, Santa Fe, NM 87504-1689

Physical Address: 1120 Paseo de Peralta, Room 428, Santa Fe, NM 87501

Main Phone: (505) 827-4601; Main Fax (505) 827-4734; Toll Free: 1-855-4-ASK-OSI

www.osi.state.nm.us

**SUPERINTENDENT OF
INSURANCE**

John G. Franchini – (505) 827-4299

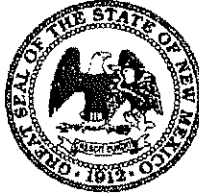
**ACTING DEPUTY
SUPERINTENDENT**

Alan Seeley – (505) 827-4307

January 14, 2016

Allstate Insurance Company
Legal Division
102 Marquez Plaza Unit 106B
Santa Fe, NM 87505

Service of Process
Room 434
(505) 827-1291



Re: Darlene Aragon Vs Allstate Insurance Company
D1329CV2016-00118

Dear Mr. President:

In accordance with the provisions of NMSA 1978, Sections 59A-5-31 & 59A-32, enclosed is a copy of a Summons, Plaintiff's Complaint for Recovery of Underinsured Motorist Benefits Pursuant to Insurance Contract and For unfair Claims Practices and Bad Faith and Court-Annexed Arbitration Certification to Defendant Allstate Insurance Company, in the State of New Mexico on the above styled cause. Service has been accepted on your behalf as of January 14, 2016.

Respectfully,

John G. Franchini, Superintendent

Enclosure

CERTIFIED MAIL 7012 3460 0000 1399 4443



**Service of Process
Transmittal**

01/19/2016

CT Log Number 528492641

TO: Jeff Grossinger
Allstate Insurance Company
MCO Office, 222 S. Mill Avenue
Tempe, AZ 85281

RE: Process Served in New Mexico

FOR: Allstate Insurance Company (Domestic State: IL)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Darlene Aragon, Pltf. vs. Allstate Insurance Company, Dft.

DOCUMENT(S) SERVED: Letter, Summons, Return, Complaint, Certificate

COURT/AGENCY: Bernalillo County - Second Judicial District Court, NM
Case # D202CV201600118

NATURE OF ACTION: Insurance Litigation - Claim for policy benefits

ON WHOM PROCESS WAS SERVED: C T Corporation System, Santa Fe, NM

DATE AND HOUR OF SERVICE: By Certified Mail on 01/19/2016 postmarked on 01/15/2016

JURISDICTION SERVED : New Mexico

APPEARANCE OR ANSWER DUE: No later than 30 days from the date of service

ATTORNEY(S) / SENDER(S): Nancy Cronin
Duhigg, Cronin, Spring & Berlin, P.A.
PO Box 527
Albuquerque, NM 87103
505-243-3751

REMARKS: Process received by Office of Superintendent of Insurance on January 14, 2016 and forwarded to C T Corporation System on January 15, 2016

ACTION ITEMS: CT has retained the current log, Retain Date: 01/20/2016, Expected Purge Date: 01/25/2016

Image SOP

Email Notification, Jeff Grossinger cdvfx@allstate.com

Email Notification, Milt Thulin Milt.Thulin@allstate.com

Email Notification, John Darabaris cd2w6@allstate.com

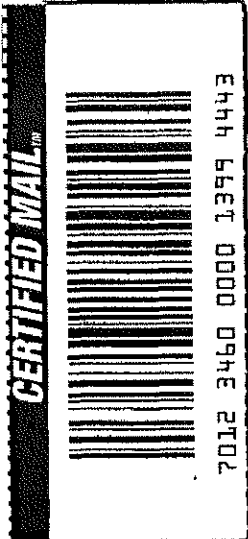
Email Notification, Jason Hayes jay.hayes@allstate.com

SIGNED: C T Corporation System

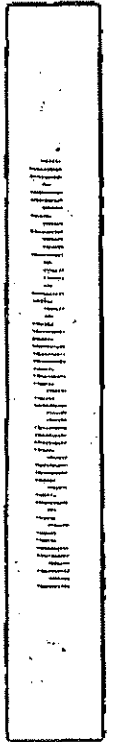
ADDRESS: 1012 Marquez Pl Unit 106B
Santa Fe, NM 87505-1833

TELEPHONE: 360-357-6794

Office of Superintendent of Ins.
Service of Process
P. O. Box 1689
Santa Fe, NM 87504-1689



Allstate Insurance Company
Legal Division
102 Marquez Plaza Unit 106B
Santa Fe, NM 87505



SUMMONS	
STATE OF NEW MEXICO COUNTY OF BERNALILLO SECOND JUDICIAL DISTRICT COURT Court Address/Telephone: P. O. Box 488 Albuquerque, NM 87103 (505) 841-7438	Case No. D-202-CV-2016-00118 Judge: Alan Malott
Plaintiff: DARLENE ARAGON vs. Defendant: ALLSTATE INSURANCE COMPANY	Summons To: Allstate Insurance Company c/o Superintendent of Insurance P. O. Box 1689 Santa Fe, NM 87504-1689

TO THE ABOVE-NAMED DEFENDANT: Please take notice that:


1. A lawsuit has been filed against you. A copy of the lawsuit is attached. The Court issued this Summons.
2. You must respond to this lawsuit in writing. You must file your written response with the Court no later than thirty (30) days from the date you are served with this Summons. (The date you are considered served with the Summons is determined by Rule 1-004 NMRA). The Court's address is listed above.
3. You must file (in person or by mail) your written response with the Court. When you file your response, you must give or mail a copy to the person who signed the lawsuit.
4. If you do not respond in writing, the Court may enter judgment against you as requested in the lawsuit.
5. You are entitled to a jury trial in most types of lawsuits. To ask for a jury trial, you must request one in writing and pay a jury fee.
6. If you need an interpreter, you must ask for one in writing.
7. You may wish to consult a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at www.nmbar.org; 1-800-876-6657; or 1-505-797-6066.

Dated at Albuquerque, New Mexico, on: 1/8/2016



JAMES A. NOEL
CLERK OF THE DISTRICT COURT

By:


Chris Peck, Deputy

/s/ NANCY CRONIN

(Signature of Attorney for Plaintiff)
Duhigg, Cronin, Spring & Berlin, P.A.
P. O. Box 527
Albuquerque, NM 87103
Phone: 505-243-3751 Fax: 505-246-9797

THIS SUMMONS IS ISSUED PURSUANT TO RULE 1-004 OF THE NEW MEXICO RULES OF CIVIL PROCEDURE FOR DISTRICT COURTS.

RECEIVED

JAN 14 2016

Office of Superintendent
of Insurance

RETURN

STATE OF _____ :

S.S.:

COUNTY OF _____ :

I, being first duly sworn, upon my oath, state that I am over the age of 18 years and not a party to this lawsuit, and that I served this Summons, on the _____ day of _____, 20____, by delivering a copy of this Summons, with a copy of the Complaint and Arbitration Certificate attached, in the following manner: **(check one box and fill in appropriate blanks)**

☐ to defendant _____ *(used when defendant accepts service or refuses to accept service of the summons and complaint)*

☐ to defendant by [mail] [courier service] as provided by Rule 1-004 NMRA *(used when service is by mail or commercial courier service)*

After attempting to effect service on the defendant by personal service or by mail or commercial courier service, by delivering a copy of the Summons with a copy of the Complaint and Arbitration Certificate attached in the following manner:

☐ to _____, a person over 15 years of age and residing at the usual place of abode of defendant _____ *(used when defendant is not presently at place of abode)* and by then mailing by first class mail to the defendant at _____ *(insert defendant's last known mailing address)* a copy of the Summons, Complaint and Arbitration Certificate.

☐ to _____, the person apparently in charge at the actual place of business or employment of the defendant and by mailing by first class mail to defendant at _____ *(insert defendant's last known business address)*

☐ to _____, an agent authorized to receive service of process for defendant _____.

☐ to _____ [parent] [guardian] [custodian] [conservator] [guardian ad litem] of defendant _____ *(use when defendant is a minor or an incompetent person)*

☐ to _____ (name), _____ *(title of person authorized to receive service. Use this alternative when defendant is a corporation or an association subject to a suit under a common name, a land grant board of trustees, the State of New Mexico or any political subdivision.)*

Fees: _____

Signature of person making service

Title *(if any)*

SUBSCRIBED & SWORN TO before me this _____ day of _____, 20____.

(Seal)

Notary Public

My Commission Expires: _____

Use Note

1. Unless otherwise ordered by the court, this return is not to be filed with the court prior to service of the summons and complaint on defendant.

2. If service is made by a sheriff or a deputy sheriff of a New Mexico county, the signature of the sheriff or deputy sheriff need not be notarized. If service is made by a sheriff or a deputy sheriff outside the State of New Mexico, the signature of the sheriff or deputy sheriff needs to be notarized.

[Adopted effective August 1, 1988; as amended by Supreme Court Order 05-8300-01, effective March 1, 2005; by Supreme Court Order 07-8300-16, effective August 1, 2007; by Supreme Court Order No. 12-8300-026, effective for all cases filed or pending on or after January 7, 2013.]

FILED IN MY OFFICE
DISTRICT COURT CLERK
1/6/2016 11:18:19 AM
James A. Noel
Catherine Chavez

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT COURT

No. D-202-CV-2016-00118

DARLENE ARAGON,

Plaintiff

vs.

ALLSTATE INSURANCE
COMPANY,

Defendant.

**PLAINTIFF'S COMPLAINT FOR RECOVERY
OF UNDERINSURED MOTORIST BENEFITS
PURSUANT TO INSURANCE CONTRACT AND
FOR UNFAIR CLAIMS PRACTICES AND BAD FAITH**

COMES NOW the Plaintiff, by and through her attorneys of record, Duhigg, Cronin, Spring & Berlin (Nancy Cronin), and for her Complaint states as follows:

1. Plaintiff is a resident of Bernalillo County, New Mexico.
2. Defendant, Allstate Insurance Company (hereinafter "Allstate") is a foreign insurer and, therefore, a non-resident of the State of New Mexico.
3. The collision which is the subject of this lawsuit occurred in Bernalillo County, New Mexico, making venue in this Court proper.
4. At the time of the collision that is the subject of this lawsuit, Plaintiff was an underinsured motorist as defined by the New Mexico laws and contemplated by the Allstate policy contract referred to herein.
5. On January 27, 2014, Plaintiff was covered by a policy of automobile insurance issued to Darlene Aragon by Allstate which provided her coverage for injuries and damages suffered through the acts or omissions of underinsured motorists. See Policy #6N29292.
6. On or about January 27, 2014, said insurance policy was in full force and effect.

General Allegations

7. On or about January 27, 2014, Plaintiff was in her vehicle, traveling on the Interstate 40 flyover, when she was struck from behind by a vehicle driven by Karon Stephens. Ms. Stephens claimed that she was pushed into Plaintiff's vehicle by a vehicle driven by Domenic Lucero.

8. At said date, time and place, Plaintiff was operating a 2006 white Hummer on I-40 in Albuquerque, Bernalillo County, New Mexico.

9. Domenic Lucero claimed that he negligently failed to stop behind Ms. Stephens' vehicle, thereby causing Ms. Stephens' vehicle to collide with Plaintiff's vehicle.

10. As a result of the collision, Plaintiff suffered serious bodily injury.

11. At the time of the collision, Plaintiff was abiding by the traffic laws of the State of New Mexico.

COUNT I - Claim for Underinsured Motorist

12. Plaintiff realleges and repeats the allegations of the foregoing paragraphs as if fully set forth herein.

13. At all times pertinent hereto, Plaintiff was an underinsured motorist as defined by New Mexico law and contemplated by the Allstate policy.

14. As a result of Plaintiff's underinsured status and the insurance contract between Allstate and Plaintiff, the Plaintiff in this case is entitled to recover damages incurred as a result of the January 27, 2014, incident from Allstate under the underinsured motorist coverage of the aforementioned policy.

15. Defendant Allstate should be directed to pay Plaintiff a sum sufficient to compensate her for her injuries and damages suffered as a result of the collision of January 27, 2014.

WHEREFORE, Plaintiff requests judgment against Defendant Allstate in an amount to be proven at trial, which is reasonable to compensate her for her injuries and damages to be sustained in the future, along with costs of this action, pre- and post-judgment interest and any other relief which this Court deems just and proper. Plaintiff does not seek damages in excess of \$74,999.00.

**COUNT II - Claim for Violations of the Unfair
Claims Practices Act and Insurance Bad Faith**

16. Plaintiff realleges and repeats the allegations of the foregoing paragraphs as if fully set forth herein.

17. At all times pertinent hereto, Plaintiff was a first party insured under the above-cited Allstate policy and was, therefore, entitled to benefits and protections of the Unfair Practices Act, §59A-16-20, et seq., NMSA.

18. Defendant Allstate has violated said statutes in its dealings with Plaintiff in one or more of the following particulars:

- a. not attempting in good faith to effectuate prompt, fair and equitable settlement of the insured's claim where liability has become reasonably clear;
- b. compelling insured to institute litigation of claims by offering substantially less than the ultimate value of the claim;
- c. refusing, after due demand, to explain the basis for its offer of a compromised settlement.

19. As a direct and proximate result of the improper claims handling procedures engaged in by Defendant Allstate, Plaintiff has been forced to institute this litigation and has thereby incurred additional costs and attorney fees, as well as other and additional damages as may be proven at trial in this matter.

20. Pursuant to §59A-16-30, NMSA, Plaintiff is entitled to recover said damages.

21. At all times pertinent hereto, Defendant Allstate had a duty to treat Plaintiff in good faith and to approach the resolution of her claim in such a manner.

22. Defendant Allstate has breached its duty of good faith by refusing reasonable attempts to resolve this matter, by requiring institution of litigation in order to recover an equitable measure of damages for the injuries suffered, and by putting its own financial interests above those of its insured.

23. As a direct and proximate result of the improper bad faith conduct of Defendant Allstate, Plaintiff has suffered additional injuries and damages in an amount to be proven at trial.

24. Defendant Allstate's conduct in this matter has been and remains intentionally engaged in and for the purpose of avoiding its contractual obligations in coercing Plaintiff into taking a sum less than which is reasonable for her injuries.

25. Defendant Allstate's conduct justifies an award of punitive damages in an amount sufficient to punish Defendant Allstate and to deter others from similar behavior in the future.

WHEREFORE, Plaintiff requests this Court enter judgment awarding her those damages, costs and attorney fees incurred by virtue of Defendant Allstate's violations of §59A-16-20, NMSA, and punitive damages, for an award of actual and punitive damages occasioned by Allstate's bad faith in this

matter, for an award of punitive damages against Allstate for its improper, outrageous and willful conduct in this matter, and for such other and additional relief as deemed proper.

Electronically filed:

By: /s/ Nancy Cronin

Nancy Cronin

Duhigg, Cronin, Spring & Berlin, P.A.

Attorneys for Plaintiff

P. O. Box 527

Albuquerque, NM 87103

Telephone: (505) 243-3751

Facsimile: (505) 246-9797

FILED IN MY OFFICE
DISTRICT COURT CLERK
1/6/2016 11:18:19 AM
James A. Noel
Catherine Chavez

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT COURT

No. D-202-CV-2016-00118

DARLENE ARAGON,

Plaintiff

vs.

ALLSTATE INSURANCE
COMPANY,

Defendant.

COURT-ANNEXED ARBITRATION CERTIFICATE

COMES NOW the Plaintiff(s), by and through the law firm of Duhigg, Cronin, Spring & Berlin, and, pursuant to Second Judicial District Local Rule LR2-603, certifies as follows:

- ☐ This party seeks only a money judgment and the amount sought does not exceed \$25,000.00, exclusive of punitive damages, interest, costs and attorney's fees;
- ☒ This party seeks relief other than a money judgment and/or seeks relief in excess of \$25,000.00, exclusive of punitive damages, interest, costs and attorney's fees.

Electronically filed:

By: /s/ Nancy Cronin

Nancy Cronin
Duhigg, Cronin, Spring & Berlin, P.A.
Attorneys for Plaintiff
P. O. Box 527
Albuquerque, NM 87103
Telephone: (505) 243-3751
Facsimile: (505) 246-9797

CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of January, 2016, I electronically filed the foregoing pleading through the Odyssey File & Serve. I also attached a copy of this document to the Complaint for service upon the Defendant.

/s/ Nancy Cronin

Nancy Cronin